

Information for Guaranty Agencies on Appeals

GENERAL INFORMATION

What role does a guaranty agency have in a school's appeal?

A school may write to a guaranty agency to obtain information to appeal the school's official cohort default rate. A guaranty agency is required to respond to a school's timely submitted request regarding Federal Family Education Loan (FFEL) Program loans for which the agency currently maintains the guaranty.¹ The guaranty agency must provide a copy of its response to the request to both the school and the U.S. Department of Education (Department). The response must be provided within the time frames specified by the Department's regulations and this Guide.

In preparing responses to inquiries, guaranty agencies should refer to the sample "Erroneous Data Response" section beginning on page 255 and the sample "Loan Servicing Records Response" section beginning on page 271.



Note

There are two official cohort default rate appeal processes that do not involve guaranty agencies. Guaranty agencies are NOT required to respond to a school's inquiry regarding a request for adjustment and/or an exceptional mitigating circumstances appeal.

Please refer to page 253 for guidance if a school mistakenly sends a request for adjustment or an exceptional mitigating circumstances appeal to a guaranty agency.

¹ 34 CFR §682.401(b)(15)

Q . Who is responsible for responding to requests for information on loans currently held by the Department?

A . The **Department's Default Management Division** will respond to a school's requests for information regarding **FFEL Program loans currently held by the Department**.

The **Department's Direct Loan servicer** will respond to a school's requests for information regarding **Direct Loan Program loans**.

Q . Who should a guaranty agency contact if the agency's address, phone number, contact person, or e-mail address changes?

A . A guaranty agency should contact the **Department's Default Management Division** at the address listed in "Appendix C" if the guaranty agency's address, phone number, contact person, or e-mail address changes.

What if unforeseen circumstances prevent a guaranty agency from responding to a school's request within the required time period?

If a guaranty agency is unable to respond within the required time period, it should **send the school a letter** on its official letterhead—

- explaining the circumstances causing the delay,
- telling the school when it will respond,
- explaining that the time frame to submit an appeal to the Department does not begin until the school receives the guaranty agency's response,²

AND

- indicating that the Department has been informed of the delay.

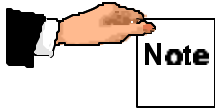


If a school does NOT receive a response from a guaranty agency within the required time period, the school may notify the Department that it has not received the required response.

² 34 CFR §668.17(c)(8)

What if a guaranty agency can only respond to a portion of a school's request within the required time period?

If a guaranty agency can respond to only a portion of a school's requested information within the required time frame, it should hold that portion of the response until it can provide a response to ALL of the school's requested information. The guaranty agency should send a letter to the school and the Department that provides the information outlined on the previous page. When ALL the needed data are gathered, the guaranty agency should send ALL of the data to the school in a single mailing.



If an eligible school is requesting information for three years of data, the guaranty agency should reply to the school in a single mailing.

What actions should a guaranty agency take when responding to a school's inquiry?

The Department recommends that when responding to schools' inquiries, a guaranty agency should:

- **thoroughly review this Guide.** This will ensure that the guaranty agency is aware of all the guidance and requirements associated with the cohort default rate appeal process.
- **send all correspondence to schools return receipt requested or via commercial overnight mail/courier delivery.** This will be useful to a guaranty agency and the Department in determining whether or not a school's response is timely.

- **maintain copies of documentation verifying the school's receipt of all cohort default rate appeal related material.** The Department will frequently call to request such documentation to determine a school's time frame to submit a cohort default rate appeal.
- **send a copy of any cohort default rate appeal related material mailed to a school to the Department's Default Management Division** using the address on page 249. The Department will use this material to make a determination on the school's cohort default rate appeal.

AND

- **retain copies of all cohort default rate appeal documents** provided to schools and the Department for a period of five years from the date the school's appeal was resolved by the Department.



If a guaranty agency does not agree with the school's subsequent inquiry, the agency should indicate that its previous response was its final response and any subsequent inquiries should be directed to the Department's Default Management Division.

MONTHLY STATUS REPORTS

How does a guaranty agency notify the Department about the status of a school's request?

A guaranty agency must send the Department a copy of its response to a school's request. Please refer to pages 255 and 271 for guidance on how to respond to a school's erroneous data request and request for loan servicing records, respectively.

However, in addition to sending the Department a copy of the appeal-related correspondence sent to a school, each guaranty agency is requested to provide the Department with a monthly status report. The monthly status report provides the Department with an update on cohort-default-rate-related requests that guaranty agencies receive from schools after the release of the official cohort default rates. These status reports will assist the Department in monitoring the time frames associated with the cohort default rate appeal process.

The status report should be sent to the Department using the address on page 249 within **5 working days** of the end of each month. For example, the status report for October 1999 should be sent by November 5, 1999.

The report should be a **cumulative** listing of all cohort-default-rate-related requests, including subsequent letters received from the school and subsequent responses made by the agency. The report should reflect the date that the guaranty agency responded to the school's request, the tracking number associated with the agency's response, and the date the school received the response.

A guaranty agency may submit copies of its responses to schools' requests with its monthly report.

Once all responses have been provided to all schools and the guaranty agency has not received any subsequent requests, the guaranty agency should send the Department an updated status report marked "FINAL". After the guaranty agency sends the Department the final report, the guaranty agency does not need to send any more monthly status reports until the next official cohort default rates are released.

**Note**

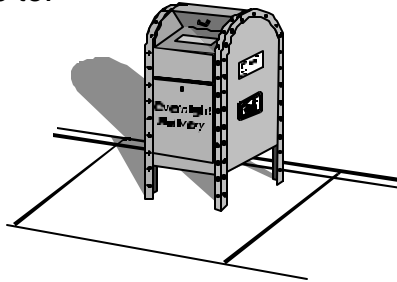
The monthly status report should be in order by:

1. OPE ID#
2. Appeal type
3. Fiscal year

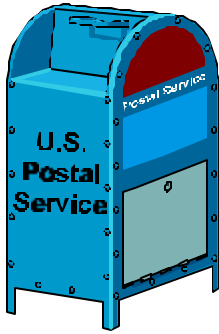
Guaranty agencies should use the sample **Monthly Status Report** spreadsheet, on page 251, or its equivalent, to submit reports.

If sent by commercial overnight mail/courier delivery, send the monthly status report and all copies of letters sent to schools regarding the school's cohort default rate to:

U.S. Department of Education
Default Management Division
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20407



If sent by U.S. Postal Service, send the monthly status report and all copies of letters sent to schools regarding the school's cohort default rate to:



U.S. Department of Education
Default Management Division
Portals Building, Room 6300
400 Maryland Avenue, SW
Washington, DC 20202-5353

Instructions for **Monthly Status Report** Spreadsheet

Record all schools that requested cohort default rate information using a spreadsheet software application such as Excel, Lotus 1-2-3, or Supercalc. The resulting spreadsheet is sent to the Department.	Column 1:	Enter the school's six-digit OPE ID number.
The spreadsheet should be on 8 1/2" x 11" paper in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.	Column 2:	Enter the school's name.
Header: Enter Monthly Status Report in the center of the header area. In the left-hand area, enter the name of the guaranty agency and the guaranty agency three digit guarantor code.	Column 3:	Enter the type of request. Use ER (erroneous data request) or LS (request for loan servicing records)
Footer: Enter the date in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page, for example: page 1 of 10 pages.	Column 4:	Enter the fiscal year(s) of the request. Use FY 1995, FY 1996, and/or FY 1997 to identify the applicable fiscal year(s).
Sort: The report should be a <u>cumulative</u> listing of all cohort default rate related requests in order by: 1. OPE ID number 2. Appeal type 3. Fiscal year	Column 5:	Enter MM/DD/CCYY (month, date, year) to identify the date the guaranty agency mailed a response to the school.
On Row 1, enter exactly the same column names in exactly the same order as listed on the sample spreadsheet. Ensure that column names appear at the top of each page.	Column 6:	Enter type of service delivery (i.e. Federal Express, U.S. Postal Service, Airborne Express, etc.) the guaranty agency used to deliver its response to the school.
On Row 2 and below, include the following data for each school that has requested cohort default rate appeal related information.	Column 7:	Enter the tracking number assigned to the response by the delivery service.
	Column 8:	Enter MM/DD/CCYY to identify the date the school signed for the response from the guaranty agency.
	Column 9:	Enter comments in this column, if needed.

State Guaranty Agency
111

Note: This is a sample spreadsheet. See instructions on the previous page.

[illegible]

[send to the U.S. Department of Education using the address shown on page 249.]

Page 1 of 1

REQUEST FOR ADJUSTMENT

A guaranty agency should NOT review a school's request for adjustment, since schools should submit all requests for adjustment directly to the Department.

If a guaranty agency receives a request for adjustment from a school, it should **immediately** contact the school to inform it that the request for adjustment must be sent to the Department at the address shown on page 71 of the "Request for Adjustment" section, and that the request must be sent to the Department within **30 calendar days** of the school receiving its official loan record detail report. The guaranty agency should also notify the Department's Default Management Division that it has contacted the school.

EXCEPTIONAL MITIGATING CIRCUMSTANCES APPEAL

A guaranty agency does NOT have a role in a school's appeal based on exceptional mitigating circumstances. An exceptional mitigating circumstances appeal is decided solely by the Department on the basis of information submitted by the school and on information maintained in the Department's records.

If a guaranty agency receives an exceptional mitigating circumstances appeal from a school, it should **immediately** contact the school and inform it that the exceptional mitigating circumstances appeal must be sent to the Department's Default Management Division at the address in "Appendix C" and that the appeal must be sent to the Department within the time frames specified in the "Exceptional Mitigating Circumstances Appeal" sections. The guaranty agency should also notify the Department's Default Management Division that it has contacted the school.

RESPONDING TO AN ERRONEOUS DATA REQUEST

How should a guaranty agency respond to a school's erroneous data request?

Step 1: Within **15 working days** of receiving the school's erroneous data request, a guaranty agency should **review this Guide to determine if the school's request is timely and if the school is eligible** to submit an erroneous data request.



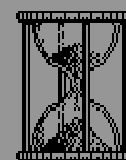
Note

The time frames and eligibility requirements associated with a school's erroneous data request are outlined in the "Erroneous Data Appeal" section beginning on page 77.

Step 2: Within the time frame described in **Step 1** (i.e., within 15 working days of receiving the school's erroneous data request), a guaranty agency should **notify the school and the Department if the school's erroneous data request is untimely or ineligible**.

••

If the school did not send its erroneous data request within **10 working days** of the school receiving its official cohort default rate, the guaranty agency should NOT review any part of the school's erroneous data request. In its response to the school, the guaranty agency should explain that it is unable to review the request because the school missed the regulatory deadline.³



Time frames may overlap. Read ALL steps.

³ 34 CFR §668.17(c)(8)(i) and 668.17(i)



The Department mails official cohort default rates at an announced time and tracks schools' receipt of the rates. Before denying a school's erroneous data request on the basis of a late submission, a guaranty agency should contact the Department to verify the actual date the school received its official cohort default rate.

If the school's submission due date falls on a weekend or a federal holiday, a school may send its erroneous data request to the guaranty agency no later than the next federal business day.

••

If a school that is **NOT subject to sanctions** submits an erroneous data request, the guaranty agency should NOT review any part of the school's erroneous data request. In its response to the school, the guaranty agency should explain that it is unable to review the request because the school is not subject to any sanctions due to its official cohort default rate.⁴

••

If a school that is subject to **limitation, suspension, and/or termination (LS&T)** of all Title IV Student Financial Assistance Programs AND/OR **extended loss** of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility submits an erroneous data request for its three most recent official cohort default rates, the guaranty agency should review the allegations and provide a response **ONLY** for the data associated with the most recent cohort default rate allegations (in this case FY 1997). In its response to the school, the guaranty agency should explain that it can review only the allegations associated with its most recent cohort default rate, because the school is not eligible to appeal any other cohort default rates.

⁴ 34 CFR 668.17(c)(1)

Example: State Guaranty Agency received School of Business' FY 1997 erroneous data request. State Guaranty Agency checked to verify that the request was timely. The school received its official cohort default rate on September 30, 1999 and the erroneous data request was submitted on October 6, 1999. Because the request was submitted within 10 working days of the school's receipt of its official cohort default rate, the request was timely. The guaranty agency then verified that the school was eligible to submit the erroneous data request with the State Guaranty Agency. Since the school was subject to extended loss of eligibility to participate in the FFEL Program, the school was eligible to submit an erroneous data request for its FY 1997 cohort default rate.

Step 3: **Within the time frame described in Step 1** (i.e., within 15 working days of receiving the school's timely and eligible erroneous data request), a guaranty agency should **review each allegation** submitted by the school.

••

Determine if all relevant material is present including, but not limited to:

- ❖ a **spreadsheet** identifying the loans that the school is requesting the guaranty agency review;
- ❖ a copy of **applicable pages from the relevant loan record detail report(s)**.

Each erroneous data allegation must be accompanied by **at least one page** of a loan record detail report;

- A school should include the page of the loan record detail report where the borrower appears, or where the borrower should appear. A school should provide both pages of the loan record detail report if the borrower appears or should appear at the end of one page or at the beginning of the next page.
- If the borrower is moved from one year to another, a school should include the page of the loan record detail report where the borrower currently appears, and the page of the loan record detail report where the borrower should appear.

❖ relevant **supporting documentation** including, but not limited to:

- a signed and dated copy of a **letter to the relevant lender or guaranty agency** that informs the entity of the borrower's last date of attendance with proof that the relevant lender or guaranty agency received the letter in a timely manner;

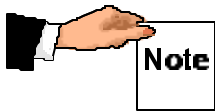
AND/OR

- a signed and dated copy of a **Student Status Confirmation Report (SSCR)** or an **NSLDS SSCR screen print** that timely informs and confirms the borrower's last date of attendance;

AND/OR

- a copy of a **cancelled check**, front and back, or other documentation showing that the borrower's loan was cancelled in-full within 120 days of disbursement by the lender.

Example: Upon reviewing the material submitted with the erroneous data request, State Guaranty Agency verified that all of the requested items for the allegation were present on the spreadsheet including the LDA, DER, CPD and FY and determined that the applicable pages from the relevant loan record detail report(s) were present. In addition, School of Business submitted supporting documentation for each allegation.



If a school fails to provide the guaranty agency with all the necessary information, the guaranty agency may ask the school to submit the missing information. However, the school must submit this additional information to the guaranty agency within the 10 working day deadline for submitting requests for verification of error.

- **Research each allegation** to determine if documentation maintained by the guaranty agency supports or refutes the school's allegation.
- **Make a determination** on each allegation listed on the school's spreadsheet.
 - ❖ **Agree** with the school if the documentation maintained by the guaranty agency supports the school's claim.

OR

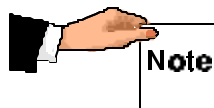
- ❖ **Disagree** with the school if the documentation maintained by the guaranty agency refutes the school's claim.

There are a number of reasons why a guaranty agency might not agree with the school's allegations of error. For example, the school might have:

- made only **general allegations** about the loan record detail report and/or the official cohort default rate calculation;
- failed to provide evidence that the guaranty agency was **timely notified of a change in status for the borrower**;
- failed to provide **supporting documentation** for an allegation;

AND/OR

- **failed to challenge data during the draft data challenge process**, and the alleged errors are NOT new data included in the official loan record detail report.



Schools may only submit an erroneous data request if the data associated with the potential error is disputed data or incorrect new data. Disputed data and incorrect new data are described in detail in the "Erroneous Data Appeal" section beginning on page 83.

Example: School of Business wants Robin Shifflette's FFEL Program Stafford loan moved from the FY 1997 official cohort default rate to FY 1996 official cohort default rate. The school submitted a copy of the FY 1996 official loan record detail report verifying that Robin was not included in the school's FY 1996 official cohort default rate and a copy of the FY 1997 official loan record detail report where the borrower is currently listed. School of Business also submitted a March, 1996 letter, signed by the financial aid administrator, that was sent to Robin's lender and timely informed the lender of Robin's February 26, 1996 last date of attendance. School of Business also included a copy of the delivery service verification that the lender received the letter.

According to State Guaranty Agency's records, the lender's records confirm that the proper timely notification of Robin's change in enrollment status was provided. As a result, the agency agreed that Robin should be moved from the school's FY 1997 official cohort default rate to the school's FY 1996 official cohort default rate.

Step 4: Within the time frame described in Step 1 (i.e., within 15 working days of receiving the school's erroneous data request), a guaranty agency should **compile a list** of the guaranty agency's responses to the school's alleged errors.

- Record the responses to each of the school's alleged errors using the sample **Erroneous Data Response** spreadsheet.

Please refer to pages 269 and 268 for a sample spreadsheet and detailed instructions on how to complete the spreadsheet.

- **Provide comments** on why the guaranty agency agrees or disagrees with each of the school's allegations.



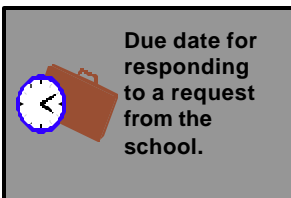
If a borrower has multiple loans guaranteed and currently held by the guaranty agency, the guaranty agency must address all of the borrower's loans associated with the school in question.

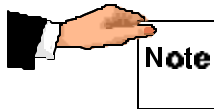
Step 5: Within the time frame described in Step 1 (i.e., within 15 working days of receiving the school's erroneous data request), a guaranty agency **should send the school a response to its erroneous data request and also send a copy of the response to the Department.**

The Department recommends that:

- all guaranty agencies submit the completed response to the school's erroneous data request using the sample **Erroneous Data Response** letter shown on page 267;
- all guaranty agencies include the spreadsheet created in Step 4 in its response;

AND

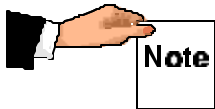




Guaranty agencies should only provide the Department's Default Management Division with a copy of the response letter and spreadsheet. Guaranty agencies do not need to provide copies of supporting documentation to the Department's Default Management Division

••

the response should be compiled in a single tabbed binder and mailed return receipt requested or via overnight courier delivery to the school with a copy to the Department.

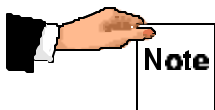


If an eligible school is requesting information for three years of data, the guaranty agency should reply to the school in a single mailing.

The recommended materials for the guaranty agency response are shown on page 265.


Step 6: **Respond to any subsequent inquiries** from a school within **5 working days** of the receipt of the school's timely inquiry and send a copy of the response letter to the Department.

If a guaranty agency does not agree with the school's subsequent inquiry, the agency should indicate that its previous response was its final response and any subsequent inquiries should be directed to the Department's Default Management Division.



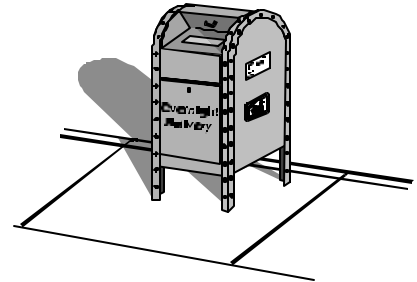
Schools must submit subsequent inquiries within **5 working days** of receiving the agency's response to its initial inquiry.

A guaranty agency should send the following to the school:

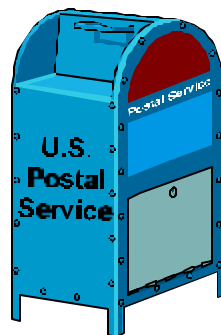
<p>The section behind Component 1 contains:</p> <p>A letter on the guaranty agency's official letterhead with—</p> <ul style="list-style-type: none"> •• the school's OPE ID number; •• the school's name; •• a statement indicating that the guaranty agency is responding to the school's erroneous data request; •• the fiscal year to which the response applies; •• the signature of the guaranty agency official, followed by a signature block providing the signer's name and job title. <p>AND</p> <ul style="list-style-type: none"> •• an indication that a copy was sent to the Department. <p>Guaranty agencies should use the sample Erroneous Data Response letter on page 267.</p>	<div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Component 1</div>
<p>The section behind Component 2 contains:</p> <p>A list, in spreadsheet format, of the guaranty agency's responses to the school's alleged errors.</p> <p>Guaranty agencies should use the sample Erroneous Data Response spreadsheet on page 269. A guaranty agency must provide data on each of the elements listed on the sample spreadsheet.</p> <div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;">  </div> <div> <p>If a borrower has multiple loans, the guaranty agency must address <u>all</u> of the borrower's loans associated with the school in question.</p> </div> </div>	<div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Component 2</div>

If sent by commercial overnight mail/courier delivery, send the Department's copy of the erroneous data response to:

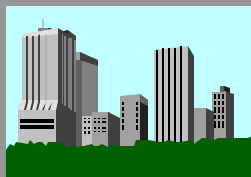
U.S. Department of Education
Default Management Division
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20407



If sent by U.S. Postal Service, send the Department's copy of the erroneous data response to:



U.S. Department of Education
Default Management Division
Portals Building, Room 6300
400 Maryland Avenue, SW
Washington, DC 20202-5353

Sample **Erroneous Data Response** Letter**State Guaranty Agency**

1234 Trueman Road
Lusby, North Carolina 98765-4321
(111) 222-3333

October 14, 1999

Sample Letter

Robert Young
President
School of Business
1212 Wedgewood Lane
Leonardtown, Wisconsin 12345-6789

OPE ID#: 111222**Subject: FY 1997 Erroneous Data Response**

Dear Mr. Young:

This is State Guaranty Agency's response to School of Business',
OPE ID# 111222, FY 1997 erroneous data request.

Please see the enclosed spreadsheet.

Sincerely,

Bob Tucker

Bob Tucker, CEO
State Guaranty Agency

Enclosure

cc: U.S. Department of Education, Default Management Division

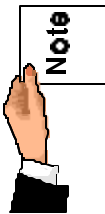
Instructions for **Erroneous Data Response** Spreadsheet

- Column 2:** Enter the borrower's name.
- Column 3:** Enter Disputed (Disputed Data) or New (Incorrect New Data) to identify if errors are alleged on the basis of unresolved data from the draft data challenge process or incorrect new data.
- Column 4:** Enter the loan type. Use the following codes to identify the type of loan.

Loan Type Codes	
Code	Description
D1	Direct Loan Subsidized Stafford Loan
D2	Direct Loan Unsubsidized Stafford Loan
SF	FFEL Subsidized Stafford Loan
SL	Supplemental Loans for Student Loan
SU	FFEL Unsubsidized Stafford Loan

- Column 5:** Enter MM/DD/CCYY (month, date, year) to identify the **EARLIER** of LTH (less-than-half-time) enrollment or LDA (last date of attendance).
- Column 6:** Enter MM/DD/CCYY to identify the date the loan entered repayment.
- Column 7:** Enter MM/DD/CCYY to identify the CPD (claim paid date), DD (default date), or ICRD (income contingent repayment date). Leave blank if the borrower did not default.
- Column 8:** Enter the recommended fiscal years to which a change should be made.
- Column 9:** Enter N (numerator), D (denominator), or B (both numerator and denominator) with a negative or positive sign (-D or +D) to indicate the effect on the CDR (cohort default rate) calculation. If there is no effect, enter None.
- Column 10:** Enter any comments. If the guaranty agency disagrees, a comment must be made in this section to identify why the guaranty agency disagreed.

Record all loans for which the school submitted an erroneous data request using a spreadsheet software application such as Excel, Lotus 1-2-3, or Supercalc. The resulting spreadsheet is sent to the school that submitted the request and to the Department



Fill out a separate spreadsheet for each school submitting an erroneous data request.

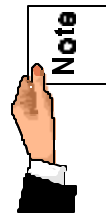
The spreadsheet should be on 8 ½" x 11" paper in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter FY [insert year(s)] **Erroneous Data Response** in the center of the header area. In the left-hand area, enter the guaranty agency name, school's name, and the school's OPE ID number.

Footer: Enter the date in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page, for example: page 1 of 10 pages.

Sort: The borrowers listed on the spreadsheet should be sorted by:

1. Borrower's Social Security number
2. Loan type.

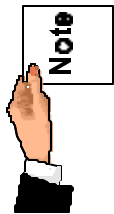


The guaranty agency should only respond to the borrowers listed on the school's spreadsheet.

On Row 1, enter exactly the same column names in exactly the same order as listed on the sample spreadsheet. Ensure that column names appear at the top of each page.

On Row 2 and below, include the following data for each loan for which the school submitted an erroneous data request.

Column 1: Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-88-0000).



If a borrower has multiple loans, the guaranty agency must address all of the borrower's loans associated with the school in question.

Sample Erroneous Data Response Spreadsheet

FY 1997 Erroneous Data Response

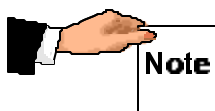
State Guaranty Agency
School of Business
OPE ID 111222

[illegible]

RESPONDING TO A REQUEST FOR LOAN SERVICING RECORDS

How should a guaranty agency respond to a school's request for loan servicing records?

Step 1: Within **15 working days** (or **30 calendar days** if the guaranty agency does NOT charge for loan servicing records AND the school is NOT subject to the loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility) of receiving the school's request for loan servicing records, a guaranty agency should **review this Guide to determine if the school's request is timely and if the school is eligible** to request loan servicing records.



Note

The time frames and eligibility requirements associated with a school's request for loan servicing records are outlined in the "Improper Loan Servicing and Collection Appeal" section beginning on page 111.

Step 2: **Within the time frames described in Step 1** [i.e., within 15 working days (or 30 calendar days if the guaranty agency does NOT charge for loan servicing records AND the school is NOT subject to the loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility) of receiving the school's request for loan servicing records], a guaranty agency should **notify the school and the Department if the request for loan servicing records is untimely or ineligible.**

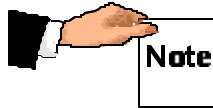
••

If the school did not send its request for loan servicing records within **10 working days** of the school receiving its official cohort default rate, the guaranty agency should NOT provide the requested records. In its response to the school, the guaranty agency should explain that it is unable to send any loan servicing records because the school missed the regulatory deadline.⁵



Time frames may overlap. Read ALL steps.

⁵ 34 CFR §668.17(h)(3)(ii)



The Department mails official cohort default rates at an announced time and tracks the schools' receipt of the rates. Before denying a school's request for loan servicing records on the basis of a late submission, a guaranty agency should contact the Department to verify the actual date the school received its official cohort default rate.

If the school's submission date falls on a weekend or a federal holiday, a school may send its request for loan servicing records to the guaranty agency no later than the next federal business day.

••

If a school submits a request for loan servicing records and **the school's most recent official cohort default rate is 19.9 percent or below**, the guaranty agency should NOT provide the requested records. In its response to the school, the guaranty agency should explain that it is unable to send the records because only schools that have an official cohort default rate equal to or greater than 20.0 percent may appeal on the basis of improper loan servicing and collection.⁶

••

If a school that is subject to **LS&T** of Title IV Student Financial Assistance Programs (but is not subject to initial loss of loan and grant program eligibility) AND/OR **extended loss** of FFEL Program and/or Direct Loan Program, and Federal Pell Grant Program eligibility requests loan servicing records for any of its three most recent official cohort default rates, the guaranty agency should provide the loan servicing records **ONLY** for the school's most recent cohort default rate (in this case FY 1997). In its response to the school, the guaranty agency should explain that it can only send the loan servicing records associated with the most recent cohort default rate because the school is not eligible to request loan servicing records for any other cohort default rates.

⁶ 34 CFR §668.17(h)(1)

- If a **school fails to provide the guaranty agency with the applicable official loan record detail report(s)** as identified in the “Improper Loan Servicing and Collection Appeal” section beginning on page 111, the guaranty agency should write to the school requesting that the official loan record detail report(s) be provided within **5 working days** of receipt of the request. If the school does NOT provide the applicable loan record detail report(s) within 5 working days of receiving the guaranty agency's request, the guaranty agency should write to the school explaining that it cannot respond to the school's request.
- If a school **requests specific loan servicing records**, the guaranty agency should notify the school that the agency is required to provide a **representative sample** of loan servicing records, which may or may not include the specific records requested by the school.



The guaranty agency may notify a school that specific records cannot be requested at the time it requests payment for the records or if the school does not require payment for the records at the time the actual loan servicing records are provided.

Step 3: Within the time frames provided in Step 1 [i.e. 15 working days (or 30 calendar days if the guaranty agency does NOT charge for loan servicing records AND the school is NOT subject to the loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility) of receiving the school's request for loan servicing records], a guaranty agency must identify a representative sample of defaulted loans included in the relevant cohort default rate calculation of the cohort default rate being challenged by the school.

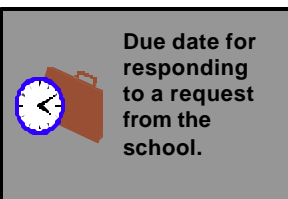
To determine the **representative sample** of defaulted loans, a guaranty agency must identify, from the official loan record detail report provided by the school, **all** of a school's defaulted student loan **borrowers** included in the relevant cohort period who have loans currently guaranteed by the agency.

If a guaranty agency identifies:

- **0 borrowers**, the guaranty agency should send a letter to the school informing the school that there were no defaulted loans currently guaranteed by the agency in the school's official cohort default rate;
 - **99 or fewer borrowers**, the guaranty agency is required to send the loan servicing records associated with **ALL** of the borrowers' defaulted **loans** that are currently guaranteed by the agency and are included in the school's official cohort default rate;
- OR
- **100 or more borrowers**, the guaranty agency may identify a **representative sample**, such that the universe estimate derived from the sample is acceptable at a 95 percent confidence level with a plus or minus 5 percent confidence interval.⁷ The representative sample should be based on the borrowers included in the official cohort default rate and should include ALL of the defaulted loans in the cohort default rate calculation associated with each of the borrowers included in the sample.



The Department has provided guidance to guaranty agencies on how to determine a representative sample. Guaranty agencies should refer to the Dear Guaranty Agency Director letter dated June, 1994 for information on determining appropriate sample sizes. A copy of the Dear Guaranty Agency Director letter can be obtained by contacting the Default Management Division at 202-708-9396.



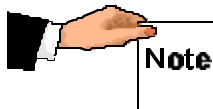
Step 4: Within **15 working days** of receiving the school's request for loan servicing records, a guaranty agency that chooses to charge for loan servicing records must provide the following to the school and send a copy of the response to the Department:

⁷ 34 CFR § 668.17(h)(3)

- a **list of the borrowers** and the number of the borrowers' defaulted loans included in the representative sample;

AND

- a **request for payment** for the records for the borrowers identified in the representative sample.



A guaranty agency may charge a reasonable fee for copying and providing the documents not to exceed \$10.00 per borrower file.⁸

If the guaranty agency does NOT charge for loan servicing records, it should proceed to Step 6 on page 276.

Step 5: Notify the school and the Department if the payment for loan servicing records is untimely or incomplete.

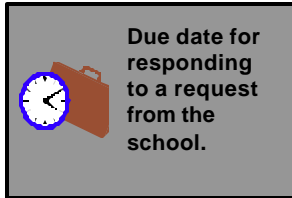
- If the school does not send its payment for loan servicing records to the guaranty agency within **15 working days** of the school receiving the guaranty agency's request for payment, the guaranty agency should NOT provide the records to the school. In a letter to the school, the guaranty agency should explain that it is unable to provide any loan servicing records because the school failed to submit the payment within the required time frame.⁹



If the school's submission date falls on a weekend or a federal holiday, a school may send its payment for the loan servicing records to the guaranty agency no later than the next federal business day.

⁸ 34 CFR §668.17(h)(3)

⁹ Id.



- If a school submits a timely payment for the loan servicing records but the **payment is not sufficient**, the guaranty agency should NOT provide the records to the school. In a letter to the school, the guaranty agency should explain that it is unable to provide any loan servicing records because the school failed to submit full payment for the records.

Step 6:

Submit the representative sample of the loan servicing records to the school within the applicable time frame.

- If the guaranty agency requested payment for the loan servicing records, the guaranty agency must provide the loan servicing records to the school within **15 working days** of the receipt of the school's timely submitted payment.
- If the guaranty agency did not request payment for the loan servicing records BUT the school is subject to the loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility, the guaranty agency must provide the loan servicing records to the school within **15 working days** of the receipt of the school's request for records.

OR

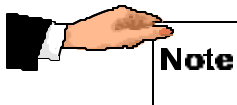
- If the guaranty agency did not request payment for the loan servicing records and the school is NOT subject to the loss of FFEL Program and/or Direct Loan Program and Federal Pell Grant Program eligibility, the guaranty agency must provide the loan servicing records to the school within **30 calendar days** of the receipt of the school's request for records.



A guaranty agency must provide copies of **all defaulted loans** included in the cohort default rate calculation for **each borrower** included in the sample.

The Department recommends that:

- all guaranty agencies submit the completed response to the school's request for loan servicing records by using the sample **Loan Servicing Records Response** cover letter shown on page 281.



If an eligible school is requesting information for three years of data, the guaranty agency should reply to the school in a single mailing.

- the response be mailed return receipt requested or via overnight/courier delivery to the school. A copy of the response should be sent to the Department using the address on page 280.



The guaranty agency should only provide the Department's Default Management Division with a copy of the response letter and list of borrowers. Guaranty agencies do not need to provide copies of the loan servicing records to the Department.

AND

- the guaranty agency assist schools in reading the collection history by identifying all the loans for each borrower and the collection activities for each loan noted in 34 CFR §668.17(h)(3)(viii). This may be done by highlighting the collection activities in the actual collection records provided to the school.

The recommended materials for the guaranty agency response are shown on page 279.

Step 7: Respond to any **subsequent inquiries** from a school regarding missing or illegible loan servicing records within **5 working days** of the receipt of the school's timely inquiry and send a copy of the response letter to the Department.





Schools must submit subsequent inquiries within **5 working days** of receiving the agency's response to its initial inquiry.

Q . What is considered a "missing" or "illegible" loan servicing record?

A . A school may request additional documentation if the loan servicing record in question does not have the necessary material present to determine if the elements specified in 34 CFR. § 668.17(h)(3)(viii) were conducted. However, a loan servicing record is not considered missing or illegible if all the necessary elements noted in 34 CFR. §668.17(h)(3)(viii) can be identified. Nor is a loan servicing record considered missing or illegible if collection history documents are present and legible.

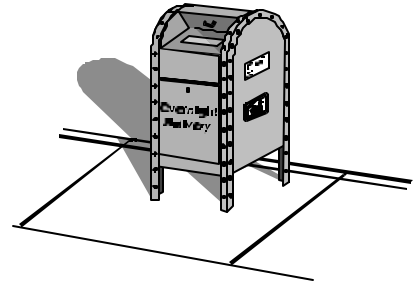
.

A guaranty agency should send the following to the school:

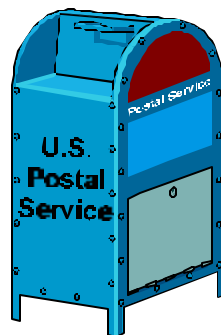
<p>The section behind Component 1 contains:</p> <p>A letter on the guaranty agency's official letterhead with—</p> <ul style="list-style-type: none"> •• the school's OPE ID number; •• the school's name; •• a statement indicating that the guaranty agency is responding to the school's request for loan servicing records; •• the fiscal year to which the request for loan servicing records applies; •• the signature of the guaranty agency official, followed by a signature block providing the signer's name and job title. <p>AND</p> <ul style="list-style-type: none"> •• an indication that a copy of the letter and list was sent to the Department. <p>Guaranty agencies should use the sample Loan Servicing Records Response cover letter on page 281.</p>	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">Component 1</div>
<p>The section behind Component 2 contains:</p> <p>A list of the borrowers and of each of the borrower's loans included in the representative sample. This list should include the borrower's:</p> <ul style="list-style-type: none"> •• Name •• Social Security number <p>AND</p> <ul style="list-style-type: none"> •• Loan Type(s). <div style="display: flex; align-items: flex-start; margin-top: 20px;">  <p>If a borrower has multiple loans, a guaranty agency must provide the loan servicing records associated with each of the borrower's defaulted loans included in the cohort default rate calculation.</p> </div>	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">Component 2</div>
<p>The section behind Component 3 contains:</p> <p>Copies of ALL loan servicing records relating to loans included in the representative sample.</p> <div style="display: flex; align-items: flex-start; margin-top: 20px;">  <p>A guaranty agency does NOT need to send loan servicing records to the Department.</p> </div>	

If sent by commercial overnight mail/courier delivery, send the Department's copy of the loan servicing records response to:

U.S. Department of Education
Default Management Division
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20407

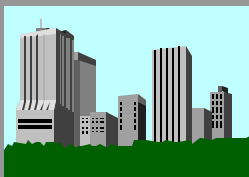


If sent by U.S. Postal Service, send the Department's copy of the loan servicing records response to:



U.S. Department of Education
Default Management Division
Portals Building, Room 6300
400 Maryland Avenue, SW
Washington, DC 20202-5353

Sample Loan Servicing Records Response Letter



State Guaranty Agency

1234 Trueman Road
Lusby, North Carolina 98765-4321
(111) 222-3333

Sample Letter

November 18, 1999

Robert Young
President
School of Business
1212 Wedgewood Lane
Leonardtown, Wisconsin 12345-6789

OPE ID#: 111222

Subject: FY 1997 Loan Servicing Records Response

Dear Mr. Young:

This is State Guaranty Agency's response to School of Business',
OPE ID# 111222, FY 1997 request for loan servicing records.

Please see the enclosed list and loan servicing records.

Sincerely,

Bob Tucker

Bob Tucker, CEO
State Guaranty Agency

Enclosure

cc: U.S. Department of Education, Default Management Division

